

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF TEACHING

In the Matter of the Proposed
Revocation/Suspension of the
Teaching License of Ronald L. Ebnet

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

This matter was heard by Administrative Law Judge Beverly Jones Heydinger, on July 27, 1999 at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, MN 55401. The hearing was held pursuant to Notice of and Order for Hearing signed by Michael L. Tillmann, Acting Executive Director, Minnesota Board of Teaching, and dated June 21, 1999. Bernard E. Johnson, Assistant Attorney General, Suite 200, 525 Park Street, St. Paul, Minnesota 55103, appeared on behalf of the Board of Teaching. There was no appearance by or on behalf of Ronald L. Ebnet, the Licensee. The Board did present evidence in support of its action. The record closed at the completion of the hearing.

This report is a recommendation, not a final decision. The Minnesota Board of Teaching (Board) will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61 (1998), the Board shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Board, 1500 Highway 36 West, Roseville, MN 55113, (651-582-8833) to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF THE ISSUE

Whether the Licensee engaged in conduct constituting immoral character or conduct, justifying the revocation or suspension of his teaching license.

Based upon all the evidence, files and proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Licensee, Ronald L. Ebnet, holds two teaching licenses under the jurisdiction of the Board. His licenses are in history and art. Both are characterized as "life licenses" by the Board and were granted more than 10 years ago.

2. Until his resignation, Ebnet was employed as a teacher by Independent School District No. 465 (Litchfield).
3. On November 17, 1998, while employed as a teacher in the Litchfield School District, Ebnet was arrested for soliciting sex from an undercover police officer in a men's restroom of the downtown Minneapolis Dayton's Department Store (Dayton's).
4. William C. Willis, an officer with the Minneapolis Police Department (Department), testified about the events leading up to Ebnet's arrest. Willis has been an officer with the Department for ten and a half years, serving as a uniformed patrol officer, and as part of the Community Response Team. On November 17, 1998, he was working off duty in plain cloths for Dayton's because of numerous complaints of inappropriate sexual activity in its bathrooms. Also, the Department and Dayton's had learned that Dayton's was identified on the Internet as a place to obtain anonymous sex.
5. Shortly after noon that day, Willis was seated on a toilet seat in a stall without a door when a man, later identified as Ebnet, entered, walked past Willis, smiled at him, and entered the stall to Willis's left.
6. Ebnet tapped his right foot; Willis tapped his left foot. Ebnet then rubbed Willis's left foot with his right foot, by extending it under the stall partition. Willis was aware that men seeking sex initiate contact in this way. After the bathroom cleared, Ebnet got down on his knees and thrust his pelvis under the partition into the stall occupied by Willis. Ebnet's pants were pulled down and his penis was semi-erect. He was wearing a red strap with a ring around his penis and testicles.
7. Willis identified himself as a police officer and informed Ebnet that he was under arrest. Ebnet was startled, began to cry, begged Willis to let him go, and to give him another chance.
8. Willis allowed Ebnet to compose himself, and to walk without handcuffs to the Dayton's security office, where he sat in a small cell. Again Ebnet began to cry, and begged to be let go, stating that he was sorry and wanted another chance. He presented identification and information about his employment as a teacher in the Litchfield schools. Ebnet was charged with indecent conduct and released.
9. The report filed by Willis summarizes the incident. Ex. 1.
10. Ebnet made his first appearance in court on February 2, 1999. His case was continued for dismissal in a year conditioned on Ebnet's agreement to pay \$300 in prosecution costs, commit no same or similar offenses, and stay out of Dayton's bathrooms. Ex. 2.

11. The bathrooms in Dayton's are available to the public, including children. Ebnet's conduct occurred on a weekday when public school was not in session, and at a time when children could be expected to use the public restroom.
12. Michael L. Tillmann, Acting Executive Director of the Board, stated that the disciplinary committee of the Board had reviewed the facts surrounding Ebnet's arrest and recommended suspension or revocation of his license. It was influenced by the public nature of Ebnet's action, the likelihood that children could be present in the public restroom, and the poor judgment Ebnet shown by engaging in indecent conduct in a public place easily accessible to children.
13. The Notice of and Order for Hearing, dated June 21, 1999, included the following notice:

"SHOULD A PARTY FAIL TO APPEAR AT HEARING, THE APPEGATIONS IN THIS ORDER MAY BE TAKEN AS TRUE. If the allegations in this Order are taken as true, the teaching licenses of Ronald L. Ebnet may be revoked or suspended for a period of not less than three years and until such time as Ebnet can demonstrate to the satisfaction of the Minnesota Board of Teaching that he is fit to teach."
14. On June 4, 1999, counsel for the Board was contacted by Stephen C. Sperry, Attorney, who stated that Ebnet had retained him, and that any further communication should be directed to Sperry. On June 21, 1999, the Notice of and Order for Hearing was served on Sperry by U.S. mail. On June 23, 1999, he was sent a Notice of Disclosure. Sperry spoke with the Board's counsel during the week prior to the hearing, and was aware of the hearing date. Neither Sperry nor Ebnet appeared at the hearing or responded in writing to the Notice of and Order for Hearing.
15. Ebnet failed to appear or respond to the charges. Pursuant to Minn. Rules part 1400.6000, he is in default and the allegations contained in the Notice of and Order for Hearing are hereby taken as true and incorporated into these Findings of Fact.

Based upon the Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Board of Teaching and the Administrative Law Judge have jurisdiction in this matter. Minn. Stat. §§ 14.50, 122A.20, subd. 1, and 214.10, subd. 2 (1998).
2. The Board has complied with all relevant substantive and procedural requirements of statutes and rules.
3. The Licensee, Mr. Ebnet, received proper and timely notice of the hearing in this matter.
4. Minn. Stat. § 122A.20, subd. 1 (1) provides that immoral character or conduct is grounds for suspension or revocation of a teacher's license.
5. The conduct described in Findings of Fact No. 6, at the time and place where it occurred, constitutes immoral character and conduct.
6. The Board staff has proved the facts at issue in this proceeding by a preponderance of the evidence.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the license of Ronald L. Ebnet be suspended or revoked.

Dated this 25th day of August, 1999.

BEVERLY JONES HEYDINGER
Administrative Law Judge

Reported: Tape Recorded, No Transcript prepared.

NOTICE

A copy of the Board's decision must be served on the parties and the Administrative Law Judge by first class mail. Minn. Stat. §14.62, subd. 1 (1998).